

WATER COUNCIL MEETING

NH Dept. of Environmental Services
29 Hazen Dr., Concord, N.H.

March 14, 2018
9:00 a.m.

Members present: Chairman Gilbert, Councilors: Boisvert, Butler, Gegas, Henderson, Joubert O'Brien, and Tremblay

Members absent: Councilors: Beaurivage, Clark, Hardy, and Rawnsley

Also present was Carolyn Guerdet, Council Clerk

Chairman Gilbert called the meeting to order at 10:00 a.m.

Steve Grady and Jonah Fjeldsted from the Legislative Audit Team, were here regarding a Performance Audit on Wetlands Permitting. They explained why they are here and what they're doing. Distributed was a handout of "What is a Performance Audit?" They are principally here to review the Wetlands Bureau. If any council members have any thoughts or concerns they are invited to contact the auditors.

1. Approval of Minutes of the January 10, 2018 Meeting

- ***Councilor Butler made a motion to accept the January 10, 2018 minutes, second by Councilor Tremblay. Motion passed unanimously with Councilor Joubert abstaining.***

2. Status of Appeals

I. New Appeals

Docket No. 18-04 WC – Town of Hampton, NH Appeal

Re: 1/17/18 Administrative Order No. 18-001 WD

Hearing Officer: Not assigned

Status: February 16, 2018 received Notice of Appeal. 2/21/18 issued receipt of Appeal letter. March 7, 2018 received Appearance from Atty. Maloney. Council to accept or dismiss appeal today.

- ***Councilor O'Brien made a motion to accept the Appeal, second by Councilor Butler. Motion passed unanimously.***

II. Decision and Orders that need to be written finalized and issued.

Docket No. 16-10 WC (PNA) – Town of Lincoln Appeal

Re: 5/20/16 Administrative Order No. 16-012 WD

Hearing Officer: David Conley assigned on 7/18/16

Status: June 17, 2016 received Notice of Appeal. 6/20/16 issued receipt of Appeal letter. Council accepted the appeal at their July 13, 2016 meeting. 7/13/16 issued Appeal accepted letter. 7/29/16 received Appearance from Attorney General. December 14, 2016 issued Notice of Pre-Hearing Conference scheduled for January 23, 2017 at 11:30 a.m. PHC was held on 1/23/17 with a 2nd PHC scheduled for April 10, 2017 at 9 a.m. April 10, 2017 issued 2nd Pre-hearing Order with

deadlines for filing. May 12, 2017 received Assented-to Motion for Extension of Time. 5/15/17 issued letter granting Assented-to Motion. 5/25/17 received Motion for Summary Judgment and Incorporated Memorandum of Law. June 26, 2017 received Objection to and Cross Motion for Summary Judgment and Incorporated Memorandum of Law. July 19, 2017 received Appellant's letter re Intent to submit SurReply to State's reply to Objection. 7/20/17 received DES' Reply to Appellant's Objection to Motion for Summary Judgment. 7/27/17 received Town of Lincoln's SurReply. October 25, 2017 distributed draft Order on Motion for Summary Judgment. Council accepted the Order 11/8/17 and the Order on Appellant's and Appellee's Cross Motions for Summary Judgment granting DES' Motion was issued. December 7, 2017 received Motion for Rehearing. 12/12/17 received Objection to Motion for Reconsideration and/or Rehearing. As it is a question of law the Hearing Officer will address this. 12/22/17 received Reply to Objection to Appellant's Motion for Reconsideration and/or Rehearing. January 23, 2018 issued Order denying Appellant's Motion for Rehearing.

III. Hearings or PHCs Pending

Docket No. 17-03 WC – Town of Hampton, NH Appeal

Subject: 1/13/17 Administrative Order No. 17-001 WD

Hearing Officer: David Conley, Esq., assigned on 3/15/17

Status: February 10, 2017 received Notice of Appeal. 2/15/17 issued Receipt of Appeal letter. Council to accept or decline appeal at their March 8, 2017 meeting. Council accepted Appeal at their March 8, 2017 meeting and issued Appeal accepted letter. April 6, 2017 issued Notice of Pre-hearing Conference scheduled for May 2, 2017 at 10 a.m. 4/12/17 received Appearance for Atty. Mary Maloney. 4/25/17 received DES' Assented-to Motion to Continue. May 1, 2017 issued letter granting Assented-to Motion to Continue. 5/2/17 issued Notice of Pre-hearing Conference scheduled for May 15, 2017 at 9 a.m. 5/11/17 received DES' Assented-to Motion to Continue Hearing. 5/12/17 issued letter granting Assented-to Motion to Continue and rescheduled PHC to July 17, 2017 at 9 a.m. June 7, 2017 issued letter rescheduling PHC to July 24, 2017 at 10 a.m. July 24, 2017 issued Pre-hearing Order scheduling a 2nd PHC for Oct. 10, 2017 at 9 a.m. and the Hearing for December 13, 2017 at 9 a.m. 10/30/17 due to power outage, 2nd PHC was cancelled. November 1, 2017 issued Notice of rescheduled PHC for December 4, 2017 at 10:30 a.m. 12/4/17 PHC was held, AO may be Withdrawn Without Prejudice and the Hearing for January 10, 2018 was cancelled. 1/18/18 issued Request for Status Update. 1/22/18 received DES' Status Update Withdrawing without Prejudice Administrative Order No. 17-001 WD. 2/5/18 received Withdrawal of Appeal. This docket now closed.

Docket No. 17-06 WC – Town of Hampton, NH, North Hampton Water Commission and Town of North Hampton Appeal

Subject: 03/29/17 Administrative Order No. 17-006 WD issued to Wiggin Way home Owners Association AND Aquarion Water Company of NH, Inc.

Hearing Officer: David Conley, Esq., assigned on 5/17/17

Recused member: Councilor Boisvert

Status: April 28, 2017 received Notice of Appeal. May 1, 2017 issued receipt of Appeal letter. Council accepted the appeal at the May 10, 2017 meeting. 5/11/17 issued Appeal accepted letter. 5/16/17 received Assented-To Motion to Consolidate (Docket No. 17-06 WC and Docket No. 17-07 WC). 5/17/17 received Appearance from Atty. Marcia Brown. 5/18/17 received Motion to Intervene. 5/25/17 issued ruling Granting Motion to Consolidate and Motion to Intervene. 5/25/17 issued Notice of Pre-hearing Conference scheduled for June 12, 2017 at 9:30 a.m. 5/29/17 received State's request to Continue Pre-hearing Conference. 6/7/17 issued letter granting request and rescheduling PHC for July 24, 2017 at 9 a.m. 6/13/17 received Request to Continue PHC. 6/15/17 issued letter granting Request to Continue and rescheduling the PHC for Aug. 14, 2017 at 10 a.m. 6/19/17 received Appearance of Attorney Jason Reimers and Assented-To

Petition to Intervene. 6/22/17 issued letter granting Petition to Intervene. August 24, 2017 received Parties agreed to Procedural Schedule and Request to Modify PHO. 8/25/17 issued letter granting request. September 8, 2017 received Withdrawal of Appearance from Atty. Christopher Aslin and received and Appearance from Atty. Mary Maloney. November 1, 2017 received Assented-to Motion for Extension. 11/8/17 issued ruling granting Assented-To Motion for Extension. December 15, 2017 received State's Motion to Dismiss. January 29, 2018 received Town of North Hampton and North Hampton Water Commission Withdrawal of Appeal. 1/31/18 received Withdrawal of Attorney Stephen Bennett and North Hampton Water Commission's Motion to Reinstate Appeal. February 9, 2018 issued letter granting Motion to Reinstate Appeal regarding North Hampton Water Commission. 2/9/18 received Town of Hampton's Objection to State's Motion to Dismiss. 2/14/18 received Wiggin Way/ Winterberry Home Owners Association's Joinder to State's Motion to Dismiss and received Appearance for Atty. Timothy Harned for the N. Hampton Water Commission and their Objection to State's Motion to Dismiss. 2/28/18 received State's Reply to Town of Hampton's Objection to State's Motion to Dismiss. March 5, 2018 received Surreply in Support of Objection to State's Motion to Dismiss.

Docket No. 17-14 WC Suzanne Fournier et al. Appeal

Re: 09/18/17 approval of Alteration of Terrain Permit N. AoT-1313 issued to the Town of Milford
Hearing Officer: David Conley, Esq., assigned on 11/16/17

Recused: Carol Henderson

Status: October 18, 2017 received Notice of Appeal. 10/19/17 issued Receipt of Appeal letter. 10/31/17 received Motion to Intervene from Town of Milford. November 7, 2017 received Appearance from Atty. Christopher Aslin for the Department. Council accepted Appeal 11/8/17 and Appeal accepted letter issued. 11/21/17 issued Notice of Pre-hearing Conference scheduled for December 11, 2017 at 1 p.m. 11/27/17 received Assented-To Motion to Continue PHC. 11/29/17 issued letter granting Assented-To Motion to Continue PHC to December 19th at 9 a.m. December 19, 2017 issued Pre-hearing Order scheduling hearing for March 14, 2018 at 9 a.m. The Appeal will possibly take 2 days. Council decided the 2nd day will be April 11th. February 14, 2018 received State's and Appellants' Witness and Exhibit Lists. March 7, 2018 received Appellants' Motion to Amend Their Exhibit List. 3/9/18 received Appellants' Statement to Clarify the Record.

IV. Inactive/Status Letter or Pending Settlement/Withdrawal

3. New Business

- a. Env-DW 701-706 Purpose and Applicability; Units of Measure; Definitions; Drinking Water Quality Standards.

Chip Mackey and Holly Green, Drinking Water and Ground Water Bureau Rules will be ready for discussion at the April meeting. These expire on May 1st. Monitoring from the source is the basis of these rules. Comment and questions were received by council members. Stakeholders have seen the rules and made comments. Public hearing has not been set yet.

- b. Env-Dw 707, 708, & 710-713 Monitoring, Sampling, and Laboratory Analytical Methods
- c. Env-Dw 718-719 Recordkeeping and Reporting

4. Old Business

Councilor Tremblay asked about the Status of HB 1104. Director Forbes gave an update and further questions and discussion were held. Integrated permitting was also discussed.

5. Next Meeting

April 11, 2018 meeting will be at 8 a.m. with continuance of Hearing at 9 a.m.

6. Adjournment

- ***Councilor Boisvert made a motion to adjourn, second by Councilor Joubert. Motion passed unanimously.***

Meeting was adjourned at 10:45 a.m.

WATER COUNCIL

HEARING MINUTES

March 14, 2018

The Water Council met for
Docket No. 17-14 WC Suzanne Fournier et at. Appeal

Wednesday, March 14, 2018 in Rooms 112, 113, & 114
at the Department of Environmental Services, 29 Hazen Drive, Concord, NH

Attendees: Chairman Gilbert, Councilors: Boisvert, Butler, Gegas, Joubert, O'Brien, and Tremblay

Also present was: Carolyn Guerdet, Council Clerk

The Hearing was called to order by Hearing's Officer David Conley at 11:05 a.m. The Hearing stopped at 3:09 p.m. and was continued to April 6, 2018 at 9 a.m.